

JUL 14 2005

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IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ROANOKE DIVISION

UNITED STATES OF AMERICA,  
Plaintiff

v.

ALVIN COOPER,  
Defendant.

Crim. No. 4:00cr70053-001

ORDER

By: Hon. Jackson L. Kiser  
Senior United States District Judge

By order entered May 10, 2005 this court denied plaintiff's motion for modification of sentence.<sup>1</sup> Plaintiff has now submitted to the court a motion requesting that the court enter an order to place the petitioner in home confinement.

Cooper alleges that he has been previously been considered and determined by the Bureau of Prisons staff to be eligible for early release after completing a drug treatment program. Plaintiff alleges to have completed said program on June 17, 2005 and thus claims he should be released to home confinement to serve the remainder of his sentence.

As noted in the May 10, 2005 order, Title 18 of the United States Code, §3582 specifically states that the court cannot modify a term of imprisonment once it has been imposed except under very specific circumstances, none of which apply in Cooper's case. Neither the government nor the Bureau of Prisons has made a motion for modification of his sentence, and the court finds no other statutory provision under which Cooper is entitled to a modification. See §3582(c) and Rule 35(b), Federal Rules of Criminal Procedure. Furthermore, there has been no remand from the Court of Appeals requiring a modification of sentence. See Rule 35(a).

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<sup>1</sup>In that motion, plaintiff alleged that he is disabled and is unable to pay a percentage of his income to a half-way house and therefore was not being considered for early release. As in this motion, plaintiff requested that the court grant him early release and order him to serve the remainder of his sentence in home confinement.

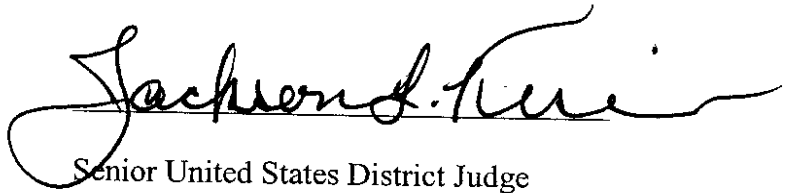
Accordingly, it is hereby

**ORDERED**

that the defendant's motion for reconsideration of the motion for modification of sentence shall be and hereby is **DENIED**.

The Clerk is directed to send certified copies of this order to the defendant and to counsel of record for the government.

ENTER: This 14<sup>th</sup> day of July, 2005.

  
Senior United States District Judge